

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 306 of 2009

1. Silip Puri, Son of Bhukhanpuri Goswami, aged about 42 years.
2. Shravan Puri alias Bandar Puri, Son of Kamalpuri Goswami, aged about 30 years.
3. Nagendra Puri alias Prince, Son of Silip Puri Goswami, aged about 19 years.

All resident of Mehendi, P.S. Shivrinarayan, District Janjgir-Champa, CG.

---- Appellants

Versus

State of Chhattisgarh through the Police Station Shivrinarayan, District Janjgir-Champa, CG.

--- Respondent

For Appellants : Shri Malay Shrivastava, Advocate

For State/Respondent : Shri Aman Kesharwani, PL

Hon'ble Smt. Justice Vimla Singh Kapoor

Order On Board

25/04/2019

FIR (Ex. P-1) lodged by Pitamber (PW-1) discloses the fact that on 23.01.2008 at about 7 PM when he along with one Sukhram (PW-3) was conversing in his house, the accused/appellants came there and started hurling abuses in the name of his caste and also resorted to beating with hands and fists. Report also discloses that when his wife namely Durgabai (PW-2) came there to intervene in the matter, the accused/appellants manhandled her also as a result of which she fell down on the ground. After medical examination of the victim and completion of investigation, the charge-sheet was filed against the accused/appellants under Sections 294, 323/34 IPC and 3 (1) (x) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, (herein after referred to as the "Special Act"). Thereafter the case was committed to the special Judge where the accused/appellants have been acquitted under the Special Act and Section 294 IPC but they have been convicted under Section 323/34 IPC and sentenced till rising of the Court with payment of fine of Rs. 1000/- each, plus default stipulation. Hence this appeal.

2. Counsel for the appellants submits that the judgment impugned is not based on the proper appreciation of evidence on record and therefore is liable to be set aside. Counsel for the respondent/State however, supports the judgment impugned.

3. Though the learned Sessions Court has acquitted the accused/appellants of the charge under the Special Act, yet evidence of the witnesses including the doctor (PW-8) clearly goes to show that on the fateful day when complainant (PW-1) was conversing something with PW-3, the accused/appellants came there and resorted to abusing and beating him with hands and fists. Evidence of the doctor (PW-8) also shows that PW-1 and PW-2 were complaining pain on their body. In view of the evidence adduced by the prosecution, the conviction of the accused/appellants under Section 323/34 IPC does not suffer from any illegality or infirmity. It is accordingly maintained.

4. Since the sentence imposed on the accused/appellants is till rising of the Court, nothing remains to be decided by this Court on this point.

5. In aforesaid view of the matter the appeal is held to be without any substance and is hereby dismissed as such.

Sd/-

(Vimla Singh Kapoor)

Judge